

CALIFORNIA HORSE RACING BOARD
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AD HOC COMMITTEE MEETING

The California Horse Racing Board's Ad Hoc Committee on Capitol Racing will meet on Tuesday, May 17, 2005, commencing at **1:00 p.m.**, in the Executive Conference Room at Santa Anita Race Track, 285 West Huntington Drive, Arcadia, California. Non-committee members attending the Board's committee meeting may participate in the public discussion, but shall not participate in any official committee vote or committee executive session.

A G E N D A

1. Review of the business practices and financial condition of Capitol Racing, LLC.
 - a. Financial Statements
 - b. Purse Account
 - c. Other

Further information regarding the committee meeting may be obtained from John Reagan, Senior Management Auditor, at the CHRB Administrative Office, 1010 Hurley Way, Suite 300, Sacramento, California, 95825; telephone (916) 263-6000 or fax (916) 263-6042. A copy of this notice can be located on the CHRB website at www.chrb.ca.gov

AD HOC COMMITTEE

Commissioner Richard Shapiro, Member
Commissioner John C. Sperry, Member

**STAFF ANALYSIS
ISSUES AND CONCERNS**

**AD HOC COMMITTEE MEETING
MAY 17, 2005**

A. CAPITOL RACING'S FINANCIAL STATEMENTS: The CHRB requires each racing association to submit financial statements.

ISSUE: Bardis believes that Capitol's financial statements are not accurate.

STATUS: The CHRB has repeatedly chided Capitol for their incomplete financial statements and has demanded complete and audited financials be submitted in the future. The CHRB is currently awaiting a complete set of Capitol's audited financial statements for 2004.

A(1). LOANS TO HORSEMEN MADE BY CAPITOL: One item included in Capitol's financial statements has been the loans to horsemen.

ISSUE: Bardis wants to have full disclosure about the amounts and the individuals that received these loans. He believes Capitol may have used undue influence in issuing these loans that apparently are no longer collectible.

STATUS: The CHRB has not addressed this issue. It has been noted that in their financial statements Capitol has essentially written off 90% of the loans. However, with the Board's direction, staff will endeavor to obtain the information regarding the loans in question.

B. TIMING OF TRANSFERS TO THE PURSE ACCOUNT: Standard practice in California is for the racing association to maintain a paymaster function that acts as a bank for the purse account. Monies received and paid are processed and daily accounting reports are issued.

ISSUE: Bardis and English contend that by not estimating the purses generated by ADW, NOTWINC and SCOTWINC (and the promo funds from #1) Capitol shows a continuous overpayment of purses when, in fact, if these amounts were included in the purse account on a timely basis the purses would not be overpaid BUT, in fact, might be underpaid.

STATUS: Staff has determined that other California racing associations do use estimates to keep their purse accounts more current. In today's racing environment with so many extra sources of income that are not directly under the daily control of the associations, they must estimate those impacts or face the grueling process of issuing underpayment checks after their meets end. In fact, since this issue was

raised, Capitol has revised their purse accounting procedures to estimate the amounts from ADW, NOTWINC, SCOTWINC. However, now that Capitol will discontinue operating a live harness meet by the end of July 2005, they must use even more estimates to ensure that the purse account is as current as possible. To that end, CHRB staff has been (and will continue to) holding regular meetings with the Capitol CFO.

B(1). UNDERPAYMENT OF PURSES FROM PRIOR YEARS: If a racing association significantly underpays purses, they will issue retroactive purse checks to the horsemen. The horsemen's agreement will generally set the levels at which this must occur.

ISSUE: Mr. Bardis has noted that the CHRB license application contains fine print that requires a retroactive purse payment if the amount of the underpayment exceeds "the average daily distribution of purses and breeder's awards during the meeting." He wants to have Capitol do a retroactive payment of purses for 2000.

STATUS: Staff has determined that the underpayment was carried forward in the next harness meet and paid to horsemen. While staff is sensitive to the concept of paying purses to horsemen that participated in the meet in question, since this issue is stale and furthermore, since the funds were paid to horsemen, staff does not believe further action is necessary.

C. SCOTWINC PROMOTION FUNDS: The Horse Racing Law provides that the harness associations and horsemen can share .5% of the simulcast handle. The law allows them to do whatever they wish with these funds but they must produce a written agreement for each meet to memorialize the disposition of the funds.

ISSUE: Mr. Bardis (and English) have taken this position: Capitol Racing DOES have a written agreement (the Horsemen's Agreement) with the CHHA that specifies ALL monies from simulcasting shall be split evenly between the association and purses. Capitol obviously disagrees and has argued that there was an oral side agreement with the CHHA that allowed Capitol to use 100% of the funds for promotion. In addition, Capitol argues that they have been doing so for several years without dispute, thus making the agreement a fact by the actions (or non-actions) of the two parties. The amount in dispute is approximately \$1.5 million.

STATUS: After reviewing the matter, CHRB staff believes that the letter of the law supports the Bardis/English position and that without convincing proof that there was an agreement contrary to the Horsemen's Agreement, Capitol owes the purse account approximately \$1.5 million.

C(1). PAYMENT OF IMPACT FEES: Negotiations and litigation regarding the payment of impact fees in the night industry has been ongoing for several years.

ISSUE: Mr. Bardis contends that Capitol Racing does not have adequate assets to pay their share if they lose the impact fee contest. He wants the Board to require them to deposit nearly \$4 million in cash with the CHRB.

STATUS: The CHRB has required Capitol Racing to post a bond and a letter of credit (\$1 million each). In addition, the CHRB has \$305,000 in escrow funds and Los Alamitos is holding approximately \$1.9 million in 6/12 escrowed funds. This appears to be adequate coverage.

C(2). RECENT TRANSFERS FROM SCOTWINC TO CAPITOL RACING:

ISSUE: The CHHA recently submitted a letter to SCOTWINC with copies to the CHRB requesting that no further transfers of the surpluses be sent to Capitol without the written authorization of the CHHA.

STATUS: It is true that \$800,000 has been sent to Capitol from SCOTWINC with regard to the current year surplus expenses. However, staff has reviewed Capitol's purse account and found that 50%, or \$400,000, of those funds have been directed by Capitol to the purse account. As such, it appears that Capitol is correctly handling this process.

CAPITOL RACING FINANCIAL SUMMARY REVIEW**CAPITOL RACING:**

- Loans to Horsemen by Capitol \$161K (Net of Allowance for Uncollectable of \$1.4M)
- Overpayment of Purses to the amount of \$2.1M
- SCOTWINC Surplus Expenses of \$400K to the Purse Account
- 6/12 Funds (see below Los Al)

LOS ALAMITOS:

- Simulcasting 6/12 Escrow Funds \$1.9M held by Los Al for Capitol

CALIFORNIA HORSE RACING BOARD:

- Capitol Bond for \$1M per Section 19464 (Surety Bond)
- Capitol Letter of Credit for \$1M
- Capitol Escrow Funds to the amount of \$305K
- Capitol Deposit of \$10K per Section 19490 (California State Treasurer)
- Capitol Insurance Policy for \$250K per Section 19464 (Workers' Comp.)